

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2742 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

=====

1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO  
1 to 5 No

-----  
MULTANI JAMILLABEN A

Versus

STATE OF GUJARAT

-----  
Appearance:

MR TJ PATEL for MR JITENDRA M PATEL for Petitioners  
MR BY MANKAD AGP for Respondents.

-----  
CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 30/11/1999

ORAL JUDGEMENT

Heard the learned Counsels for the respective  
parties.

2. This petition under Article 226 of the  
Constitution of India is filed praying to restrain the  
respondents from deducting any amount of House Rent  
Allowance from the pay of the petitioners from June 1987

and to declare the action of the respondents in deducting the House Rent Allowance from their pay as illegal. It is also prayed that the House Rent Allowance deducted till then from the pay of the petitioners may be directed to be refunded to them.

3. The learned advocate for the petitioners Mr.T.J.Patel appearing for Mr.J.M.Patel submits that, while admitting this petition, interim relief is granted on 26.10.1988. Accordingly, some of the petitioners who had paid up the full amount of the agreed purchase price of the premises allotted to them have availed the benefit of the interim relief. Those of the petitioners who had not paid up the amount are also paid the House Rent Allowance from the time when they have paid the full amount. It is submitted that the other Government employees who are residing in their own houses were being paid the House Rent Allowance. The petitioners are similarly situated Government employees.

4. The learned Assistant Government Pleader appearing for the respondents has not made any factual submissions by filing an affidavit-in-reply or otherwise. As far as the legal aspect of discrimination among the similarly situated Government employees is concerned, it is not seriously disputed that the petitioners would be entitled to the House Rent Allowance after they became owners of the premises allotted to them.

5. The petition is therefore allowed and the respondents are directed not to make any deductions by way of House Rent Allowance from the pay of such of the petitioners who have paid the full purchase price of the premises allotted to them and, if any deductions by way of House Rent or House Rent Allowance are made from the pay of the petitioners after they had paid the full purchase price of the premises allotted to them, the same is directed to be refunded to the respective petitioners within two months from today.

6. Rule is made absolute to the above extent with no order as to costs.

Sd/-

(KMG Thilake)

#####